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Plaintiff FIREEYE, INC.

13 [SEE SIGNATURE PAGE FOR COMPLETE
LIST OF COUNSEL]

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

18 | FORTINET, INC.,

Case No. 3:13-cv-02496-HSG

19 Plaintiff,

**JOINT STIPULATION AND [PROPOSED]
ORDER FOR DISMISSAL OF STATE
LAW CLAIMS WITH PREJUDICE AND
OF PATENT CLAIMS WITHOUT
PREJUDICE**

20 | V.

21 | FIREYE, INC.,

Judge: Hon. Haywood S. Gilliam, Jr.
Courtroom: 15, 18th Floor
Action Filed: June 5, 2013

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FIREYE, INC.,

Counterclaim Plaintiff,

V.

FORTINET, INC.,

Counterclaim Defendant.

1 WHEREAS, on September 21, 2015, Plaintiff and Counterclaim Defendant Fortinet, Inc.
2 ("Fortinet"), and Defendant and Counterclaim Plaintiff FireEye, Inc. ("FireEye") entered into a
3 settlement agreement ("Settlement Agreement") addressing all issues and controversies in the
4 above-entitled action, pursuant to FED. R. CIV. P. 41(a);

5 THEREFORE, IT IS STIPULATED AND AGREED between the parties, through their
6 respective counsel of record herein, that:

- 7 1) Fortinet's state law claims (Counts VII-VIII of Fortinet's Second Amended Complaint,
8 D.I. 71) shall be dismissed **with** prejudice;
- 9 2) Fortinet's patent infringement claims (Counts I-VI of Fortinet's Second Amended
10 Complaint, D.I. 71), and FireEye's corresponding counterclaims for declaratory relief
11 of non-infringement, invalidity and unenforceability (Counts IV-V of D.I. 85) shall be
12 dismissed **without** prejudice;
- 13 3) FireEye's patent infringement counterclaims (Counts I-III of D.I. 85), and Fortinet's
14 corresponding counterclaims for declaratory judgment of non-infringement and
15 invalidity (First through Sixth Counterclaims of D.I. 88) shall be dismissed **without**
16 prejudice;
- 17 4) The parties shall each bear their own costs, expenses, and attorneys' fees;
- 18 5) All signatories listed, and on whose behalf the filing is submitted, concur in the filing's
19 content and have authorized the filing.

20 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**

1 Dated: September 21, 2015

Respectfully submitted,

2 By: /s/ *Shane Brun*

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21 Attorneys for Defendant and Counterclaim
Plaintiff FIREEYE, INC.

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1 Dated: September 21, 2015

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17 Attorneys for Plaintiff and Counterclaim
18 Defendant FORTINET, INC.

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1 **PURSUANT TO STIPULATION, IT IS ORDERED** that Plaintiff Fortinet, Inc.'s state law
2 claims are dismissed **with** prejudice, and that the parties' respective patent infringement claims
3 and corresponding counterclaims for invalidity, unenforceability and non-infringement are
4 dismissed **without** prejudice.

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6 Dated: September 22, 2015

7 
The Honorable Haywood S. Gilliam, Jr.
United States District Court Judge

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LOCAL RULE 5-1(i)(3) ATTESTATION

I, Shane Brun, am the ECF user whose ID and Password are being used to file this
JOINT STIPULATION AND [PROPOSED] ORDER FOR DISMISSAL OF STATE LAW
CLAIMS WITH PREJUDICE AND OF PATENT CLAIMS WITHOUT PREJUDICE . In
compliance with Civil Local Rule 5-1(i)(3), I hereby attest that John M. Neukom counsel for
Plaintiff, Fortinet, Inc., has concurred in its filing.

Dated: September 21, 2015

/s/ *Shane Brun*
Shane Brun

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on September 21, 2015, to all counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system. Any counsel of record who have not consented to electronic service through the Court's CM/ECF system will be served by electronic mail, first class mail, facsimile and/or overnight delivery.

/s/ Shane Brun

Shane Brun